

Responsibility for Organizing the House,

AND FOR THE

DEFEAT OF THE POST OFFICE APPROPRIATION BILL.

REMARKS OF HON. GALUSHA A. GROW, OF PENNSYLVANIA, IN THE HOUSE OF REPRESENTATIVES,

On a Resolution offered by Mr. Winslow, of N. C., that no further vote as to the organization of the House take place until the second Monday in January, 1860.

THURSDAY, DECEMBER 22, 1859.

Mr. Clerk, under the law of Congress, which has been read here a number of times, passed the 1st of June, 1789, there are but two motions in order; one is a motion to proceed to vote for Speaker, and the other is a motion to adjourn. So, under the parliamentary law, those are the only motions that are in order. The only votes that can be taken by the House, in accordance with the law of Congress and with the parliamentary law, is on one or the other of those motions; and the practice of the House conforms to that. It was so decided by Mr. Cobb, when Speaker of this House in the Thirty-first Congress, on the occasion of the death of the Clerk.

"The SPEAKER said: In the opinion of the Chair, no resolution, no business, is in order until a Clerk shall have been elected; and the House can take action upon no subject whatever until the election of a Clerk, that being necessary to the organization of the House."

On an appeal by Mr. Brown from the decision of the Chair, which was sustained by the House without a division, the Speaker stated his decision in the following language:

"The CHAIR has ruled that the resolution of the gentleman from Mississippi [Mr. Brown] is out of order, upon the ground that the House is not organized until a Clerk shall have been elected, and that no business is in order until the House shall have been organized by the election of a Clerk."

But, sir, aside from the question of order, we have been here now almost three weeks, and upon the first day of the session, before any serious effort was made to organize this House, the discussion of the Slavery question was thrust upon it—even before a vote was taken for Speaker, save an informal one. True, we had one vote, but it was like an informal ballot, merely to ascertain the individual preferences of members for candidates. Before any serious effort, therefore, was made to organize the House, this discussion of the whole Slavery question was forced upon us by the gentlemen who cry, "No agitation of Slavery!" They have continued the discussion from that day to this, while gentlemen upon this side of the House have sat with closed lips, under the grossest perversions of their doctrines ever attempted by men who claim to be fair-minded.

We ask that the House should first proceed with its proper business. There are now about five million dollars due to honest creditors of the Government—to men who have performed service under written contracts, and to whom the

faith of the Government was pledged. And now, when they have performed that service, and waited almost or quite six months for their pay, you propose to go to your homes, or on pleasure trips, and leave these men to be bankrupt because the Government will not keep its faith with them! We ask that the plighted faith of the Government shall be observed to all men, but, above all, to its just creditors who have performed service under written contracts with it. And yet, gentlemen, we have sat here for almost three weeks and listened (with the exception of three or four speeches) to the editorials of the New York Herald, for the last month or two, rehashed and given to us in the form of speeches. [Applause.] The Herald has furnished brains for this whole discussion, which has lacked, I am sorry to say, the terseness of style that usually characterizes the columns of that paper.

Our time, thus far, has been consumed in advertising Helper's book. If gentlemen are satisfied with advertising and scattering broadcast through the land this pamphlet, which they say is so destructive to their peace and tranquillity, if they are satisfied to give to it a circulation of thousands where it would not before have had one, then they have performed a work that the publishing committee of New York should thank them for; for they tried more than a year to get up a circulation for it, and could not do it; but while they failed, you have succeeded, and, by your advertisement here, spread it broadcast over the land; and if it be as incendiary as you say, and its circulation is dangerous to your peace and the repose of this Union, you are responsible for it. We have given it no advertisement that sent it forth to be read by the people.

Several MEMBERS on the Democratic side. But you endorsed it.

Mr. GROW. Gentlemen, when the proper time comes for the discussion of our principles and positions, we shall be ready, as we have ever been heretofore, to discuss and defend them; but we have a right to ask, when our sentiments are in the Congressional Globe, deposited with the archives of the country, and the sentiments of all our associates, put there from year to year for the last five years, that you shall not attempt to represent our principles and positions by reading in this Hall the perversions and libels of the Democratic press of the country as to our principles and positions. We ask that we shall be judged by our own sentiments, expressed by ourselves over and over again on this floor, and by our platforms of principles adopted in our Conventions, and not by the perversions and misrepresentations of our opponents.

I ask what fairness would there be in us, if we turned round and undertook to read to you from the Republican press of the North what your

sentiments and your doctrines are, when your own sentiments are in the Congressional Globe, spoken by yourselves, and the party has spoken for you in its resolutions formed by your consent?

Mr. Clerk, when a man charges me with being an accomplice in murder, treason, arson, or any other heinous crimes, I have no answer to make to it. I would treat it with that silent contempt it deserves. My own political sentiments I am ready to proclaim at all befitting times, and in all places, and on all occasions; but my friends in this case have seen fit, and, I think wisely, to ask that this House should make a serious effort to organize, by devoting their whole time to that business; that is, to vote for Speaker, or on propositions for electing one. Let that be our business until accomplished, and leave these questions of political doctrines to be discussed after the House has been organized, and the creditors of Government, that to-day stand on the threshold of bankruptcy, are paid, instead of occupying the whole time in discussing what a pamphlet of one hundred and twelve pages contains, and whether it is destructive of the peace of the Union. Is the peace of this Union to be disturbed, and its bonds severed, by a printed pamphlet of one hundred and twelve pages? This Union is not so strong as I supposed it was, if any pamphlet of one hundred and twelve pages of printed matter, I care not what it is, can disturb its tranquillity and endanger its stability.

Now, I, and the friends with whom I co-operate, ask that the business for which we came here shall be discharged in accordance with the law of Congress and the parliamentary law, under the obligations we owe, not only to the whole country, but to that meritorious class of men whom the faith of your Government is pledged to protect and save from bankruptcy, after having performed their part of your contract. I, sir, have no authority for making the declaration, but I have heard it intimated, and I should not blame the men if they did it, that when the first day of January comes, and the Government is not ready to comply with the contracts made with them for the transportation of the mails, and if it is not ready to pay the four or five million dollars you owe them, they will abandon your mail service. If you choose, then, to let the mail service of the country stop, rather than go on under the law of Congress and organize the House, by receiving and acting on propositions for that purpose, and nothing else, then take the responsibility. We share none of it. We have taken no part in this discussion which delays the organization. We consent to no adjournment over the holidays for the convenience or amusement of members, while this class of meritorious creditors of the Government are left unprovided for.

Mr. WHITELEY. I should like to know upon whose motion the Post Office bill was defeated last session.

Mr. GROW. When that question comes up properly for discussion, I shall be ready to answer the gentleman fully; and have only to say now, that so far as I am concerned, as a Representative, so long as I hold a place on this floor, I would no sooner consent that a co-ordinate department of the Government shall invade the prerogatives of this House, than I would permit a private citizen to violate any of the guaranties

and compacts of the Union. [Applause in the galleries.]

Remarks of Hon. L. O'B. Branch, of North Carolina, in reference to the Defeat of the Post Office Appropriation Bill at the close of the last session of Congress.

MONDAY, DECEMBER 26, 1859.

Mr. BRANCH. It was my fortune, during the last session of Congress, to be on the committee of conference that had charge of the disagreeing votes of the two houses on the Post Office bill. The committee, on the part of the House, was composed of the gentleman from Virginia—the Governor elect of that State, (Mr. Letcher,) the honorable gentleman from Pennsylvania, [Mr. Grow,] and myself; and I may say to the House that nothing could have surprised me more than to hear, the day before yesterday, the loud lamentation that was made by the gentleman from Pennsylvania over the loss of that bill, and the present unhappy fate of the mail contractors of the country.

My friend from Virginia has stated, very well, a large part of the history of that bill. I had an opportunity of having some peculiar knowledge on the subject; and I say here, in the presence of the House, in the presence of the gentleman from Pennsylvania himself, and where it may be known and heard by the mail contractors of the country, that that gentleman, and he alone, is responsible for the defeat of the bill making appropriations for the support of the Post Office Department for the present year. The gentleman from Virginia has caused to be read a resolution offered by the gentleman from Pennsylvania, by which, when we received that appropriation bill from the Senate, he proposed to send it back; and he and his party succeeded in sending it back into the teeth of the Senate. The pretence on which that resolution was passed—

Mr. GROW. I suppose the gentleman does not mean exactly to say that the Senate sent us any bill. It was our own bill that was returned.

Mr. BRANCH. Yes. We passed a bill making appropriations for the support of the Post Office Department. That bill went to the Senate. The Senate, in the exercise of its constitutional powers and rights, amended that bill in many particulars; and, among other things, inserted a proviso for the increase of the rates of postage. When the bill and amendments came before the House, the honorable gentleman from Pennsylvania offered the resolution that has been read. The ground on which it was proposed to return the bill was, that the Senate had transcended its constitutional powers in inserting a proviso which the gentleman from Pennsylvania construed to be a provision for raising revenue.

Now, Mr. Clerk, without intending to impeach the motives of the gentleman from Pennsylvania, I say, and I think I can show, that that was not the real motive which the honorable gentleman had in offering that resolution. I undertake to say, and I think I can show, that the object which he had in view was to defeat the bill, in order to compel the President of the United States to call Congress together in extra session, so that he and his friends might, at an earlier day than they otherwise could, get control of the organization of the House.

Mr. GROW. Mr. Clerk—
Mr. BRANCH. Let me complete my statement.

Mr. SMITH, of Virginia. I wish it understood that I would rather hear the gentleman from Pennsylvania speak in his own time. I do not want to publish his remarks. It is enough for me to publish my own. Let the gentleman from North Carolina go on.

Mr. BRANCH. I think I can show that the real object of the gentleman from Pennsylvania, and of his friends on this floor, was to defeat the Post Office appropriation bill, in order that the President of the United States might be obliged to call Congress together, and that they might thereby, at an early day, get control of the organization of the House. And why do I think so? Why do I say that the charge of the Senate's having transcended its constitutional power was a pretence? I say so, because the resolution, passed by the Senate of the United States, and sent to this House in response to that which has been read, indicated clearly that the Senate would not insist on its amendment increasing the postage. Here is the resolution. It was offered by a Senator, whose name and fame are as intimately connected with the Senate as the name and fame of any other member of that body. Mr. CRITTENDEN, of Kentucky, offered the following resolution, which was passed:

"The House of Representatives having communicated to the Senate a resolution in the following words, to wit:

"*Resolved*, That House bill (No. 872) making appropriations for defraying the expenses of the Post Office Department for the year ending 30th June, 1860, with the Senate amendments thereto, be returned to the Senate, as section thirteen of said amendments is in the nature of a revenue bill."

"*Resolved by the Senate of the United States*, That the Senate and House being, of right, equally competent each to judge of the propriety and constitutionality of its own action, the Senate has exercised said right in its action on the amendments sent to the House, leaving to the House its right to adopt or reject each of said amendments, at its pleasure.

"*Resolved*, That this resolution be communicated to the House of Representatives, and that the bill and amendments aforesaid be transmitted therewith."

Now, I say that this resolution, on the face of it, conveyed the information to the House that all the Senate asked of it was that the House should not cast an insult on the Senate; should not throw this bill back into their teeth, but should relieve them of the parliamentary discourtesy which, as every man knows, was implied in the resolution which the honorable gentleman from Pennsylvania had offered, and which the House had adopted. If the gentleman from Pennsylvania had been anxious to pass the bill for the support of the Post Office Department, and to save the mail contractors from ruin, he had notice in the very terms of the resolution that all he had to do was to take up the amendments, and let the House disagree to that which proposed to increase the rates of postage. The Senate would have receded from it, and the bill would have been passed.

Mr. GROW. Did not the House afterwards, by a unanimous vote, pass a new bill making appropriations for the Post Office Department, and send it to the Senate?

Mr. BRANCH. I repeat that the honorable gentleman from Pennsylvania had notice in that resolution of the Senate that all that the Senate objected to was the insult implied in the action of the House. If the House had taken up the amendments, and disagreed to the one increasing

the rates of postage, the Senate would have receded, and would have passed the bill in the form acceptable to the House.

I do not intend to divulge anything that occurred in the committee of conference; but I assert here, that the honorable gentleman from Pennsylvania knew then, and knows now, that if the House had taken up the bill, and disagreed to that amendment, the Senate would have receded from it unanimously. I assert that, with a knowledge of that fact; with the knowledge that if we would only pursue that course, the bill would become a law; the gentleman from Pennsylvania persisted in refusing to adopt that course, and insisted on compelling the Senate to swallow an insult or to reject the bill. I assert it here, in the presence of the gentleman, and I challenge contradiction, that the gentleman knew that all the Senate asked was, that the House would take up the bill, and disagree to the Senate's amendment, and then the Senate was ready to recede from that amendment.

Moreover, Mr. Clerk, I have another proof. The gentleman asserted that his reason for refusing to take the bill from the table was, because the Senate had transcended its constitutional authority in inserting that amendment. I ask the gentleman why it was that he voted against the bill before it went to the Senate, and before the Senate had ever put that amendment on it? That is a point that I want understood by the House, and by the mail contractors of the country, that when the bill making appropriations for the support of the Post Office Department was pending before the House, on the 26th of February, before it had ever been to the Senate, or had any unconstitutional amendment upon it, the gentleman from Pennsylvania, and the whole body of his friends, with two exceptions, voted against the bill and rejected it. But two members on that side of the House voted for its passage. Where was all their sympathy for the mail contractors then? How was it that some of this tenderness of conscience that they feel now, some of this ardent sensibility that seems to be actuating the gentleman from Pennsylvania now, was not felt then? There was no Senate amendment on the bill then; and yet a clean bill, perfected in Committee of the Whole of this House, and with no provisions in it but such as had been inserted by a majority of the House, was rejected by that gentleman and his friends, but two members of the Republican party voting in favor of it, and the gentleman from Pennsylvania, and the present candidate of the other side for Speaker, voting against it! The bill then stood rejected. The Democratic side of the House, anxious to make provision for the support of the Government, and for the relief of the mail contractors of the country, moved a reconsideration of the bill; it was brought before the House by a reconsideration, and the House again voted on it. And, sir, upon that second vote—the bill being still without any amendment from the Senate, for it had never been to the Senate—the gentleman from Pennsylvania, the Republican candidate for Speaker at this time, and the whole body of the Republican party, with but seven exceptions, again voted against the passage of the bill! They voted against it the second time after it had been announced that, having been once reconsidered, another motion to reconsider

would not be in order, and that, if rejected then, it would have to stand rejected altogether. All this, Mr. Clerk, occurred before the bill had been to the Senate. If the object of the gentleman from Pennsylvania was to prevent the Senate from encroaching upon the prerogatives of the House—if that was his sole object in having his resolution passed—what reason can be given to the mail contractors of the country for having voted against the bill twice before the Senate amendment had been put upon it?

Now, I think I am justifiable, in the face of these facts, in saying that the design which the gentleman had in view was to kill the bill, and that the motive and the object that he had was to compel the President to call Congress together shortly after the 4th of March. Why, who of those of us who were here in the last Congress, and were in this Hall on the last night of the session, has forgotten with what frantic vehemence, when a conference committee was applied for by the Senate, and was about to be appointed, the gentleman from Pennsylvania got up and resisted it, until he had an assurance that the bill itself could not go to the committee? So much was he afraid that the committee of conference would agree upon some bill that could pass and become a law, and that the cherished object of himself and his friends to have an extra session would thus be defeated, that he stood here, just before daybreak on the 4th of March last, and resisted to the very uttermost allowing the committee of conference to have possession of the bill.

Now, I say—and I think I am justifiable in saying—that the most surprising thing I have witnessed on this floor is the attempt of the gentleman from Pennsylvania to hold this side of the House responsible for the defeat of that bill, when the records of the country show that he himself is responsible for its defeat; and that he and his party are alone responsible now to the country and to the mail contractors for the failure of the Government to meet its obligations.

Nor is this, sir, all the proof. We all remember that when they had succeeded in defeating the bill, and they knew full well that their course would defeat it, and the President undertook to carry on the Department without calling Congress together—has any gentleman in this House forgotten how they denounced the Postmaster General, the President, and the whole Administration, for issuing certificates, that method having been resorted to as a means of relieving the mail contractors from the consequences of the act of the gentleman from Pennsylvania and his friends? They denounced the President, and everybody connected with the Administration, as being guilty of usurpation of power, and a violation of law, because, in their anxiety to relieve the mail contractors from the danger and embarrassment which the gentleman from Pennsylvania had brought upon them, they were endeavoring to issue certificates under which the mail contractors might raise money.

I conclude, Mr. Clerk, with a repetition of my question to the gentleman from Pennsylvania, and I hope he will answer it before the House, and to the satisfaction of the country; if his motive in defeating that bill was to prevent the Senate from usurping a part of the prerogatives of this House, why was it that he voted against

the bill twice before the amendment of the Senate had ever been put upon it?

Mr. GROW addressed the Clerk.

Mr. SMITH, of Virginia. Oh, no; I cannot allow the gentleman to make his speech within mine.

Mr. GROW. After we have had two speeches upon one side, is no response to be permitted?

THURSDAY, DECEMBER 29, 1859.

Mr. GROW. Not being able, sir, to obtain the floor at the time the remarks were made by the gentleman from North Carolina, [Mr. BRANCH,] and the gentleman from Virginia, [Mr. SMITH,] in reference to the Post Office appropriation bill of the last session of Congress, I am necessarily compelled, at this time, to repeat a small part of the record which they introduced, and then I shall refer to a part of the record on which they did not seem disposed to comment. On the 26th of February last, a bill passed this House, making all the necessary appropriations for the support of the Post Office Department for the present year. It appropriated about twenty million dollars; about \$2,000,000 was for the erection of post offices and custom-houses in different States of the Union; \$3,800,000 was to supply a deficiency in the appropriations for last year. So it left, for the current expenses of this year, about fifteen million dollars. The bill was sent to the Senate, and it was afterwards returned to this House upon the morning of the 2d of March, with thirty-three amendments attached to it by the Senate, one of which provided for an increase of the rates of postage from three to five and ten cents on letters, and doubled the postage on printed matter. When the bill was returned to the House, as was said by the gentleman from North Carolina, who referred to this subject, I rose to a point of privilege, that, under the Constitution, the Senate of the United States could not originate a revenue bill; and, as they could not do that, they could not put a revenue measure as an amendment to a bill to which it was not germane. The resolution offered by me was in these words:

"Resolved, That the House bill (No. 872) making appropriations for defraying the expenses of the Post Office Department for the year ending the 30th June, 1860, with the Senate amendments thereto, be returned to the Senate, as section thirteen of said amendments is in the nature of a revenue bill."

This was the resolution referred to by the gentleman from North Carolina, sending the bill back with the suggestion that one of the Senate amendments was in the nature of a revenue bill. Why do it? We made that suggestion in order that the Senate could leave that amendment out if they chose to, and then return the bill to us with their other amendments, which, in that case, we should have taken up and considered. That resolution passed the House, 117 yeas to 76 nays. Twenty-nine Democrats voted for the resolution, and nine South Americans, and every Republican who voted. Yet the charge by gentlemen on this floor arraigned me, and the gentlemen with whom I co-operate, as attempting to invade the prerogatives of the Senate, and as adopting an unjustifiable course, under the plea of preserving the privileges of the House against encroachment. The Republican party upon this floor, in the last Congress, had but ninety members, whilst the Democrats had one hundred and

thirty; and yet, notwithstanding the forty Democratic majority, this resolution passed the House by a majority of forty-one. So far, I give credit to those Democrats who stood with us to protect the constitutional prerogatives of the House against encroachment by a co-ordinate department of the Government. The resolution was sent to the Senate, accompanied by the bill. They returned to us the answer which was read by the gentleman from North Carolina the other day.

We agreed with them on their doctrine that each House could judge of the constitutionality of its action, and we had the same right to judge of ours that they had of theirs. In the early part of the day, the 3d of March, Mr. Phelps moved to take the bill from the table, and the House refused to take it up; and there it was left on the adjournment, as the gentleman said.

This bill had an amendment of the Senate upon it, increasing the postages of the country—almost doubling them; and the question arises, could the Senate originate a bill to increase postage? The point was made, the other day, that this House violated its constitutional duty when it raised this question, and the gentleman from Virginia [Mr. SMITH] said that the sands of the Congress were running out when it was made, and therefore it was too late to raise a constitutional question. I thought that it was proper to raise constitutional questions at all times, no matter whether the last sand in the hour-glass had run out or not.

To justify the action of the House, Mr. Clerk, I read from the Constitution of the United States, section seven, article first:

"All bills for raising revenue shall originate in the House of Representatives."

That is a plain, express provision. Then the question arises, Is the collection of Post Office receipts raising revenue? On that point, I will not rely alone upon my own judgment, or upon the sense of the House, expressed by its forty-one majority, but I will call the attention of gentlemen to the decisions, not only of the Circuit Court of the United States, but of the Supreme Court also. Without referring to all the laws of Congress which have been passed in reference to the Post Office receipts, in all of which they are termed *revenue*, I call attention specially to the act passed July 24, 1836, (fifth volume Statutes at Large, page 80.) The first clause of the act reads thus:

"That the revenue arising in the Post Office Department, and all debts due to the same, shall, when collected, be paid, under the direction of the Postmaster General, into the Treasury of the United States."

These Post Office receipts all go into the Treasury; and, when once there, every gentleman upon this floor knows that there is no way to take money out of the Treasury, save by an appropriation by Congress; and that, if there were a surplus in the receipts for postages over the expenses of the Post Office service, we could appropriate it for any other purposes of the Government. So, then, they go into the common fund under the laws of Congress, and belong to the revenue of the Government. I will read from a decision of Judge Ingersoll, of the Circuit Court of the United States for the district of New York, delivered March 17, 1859, in which the only point raised was, whether Post Office receipts

were revenue or not. Mr. Fowler, postmaster at New York, had been sued by James A. Warner, because he did not deliver up certain letters which Mr. Warner claimed belonged to him. By the third section of an act of Congress, passed the 2d March, 1883, (Statutes at Large, vol. 4, p. 633,) it is provided that, when a suit or prosecution shall be commenced in a court of any State, against any officer of the United States, or other person, for or on account of any act done under the *revenue laws of the United States, or under color thereof*, the defendant can remove his suit from the State court into the Circuit Court of the United States, by taking the proper steps. The defendant did that in this case; and the question arose, whether the case should be remanded to the State court. I read from Mr. Ingersoll's decision:

"The plaintiff moves afterward before this court, and makes his motion to have the cause remanded to the Supreme Court of the State, and to have all the proceedings for the removal of the same into this court vacated, on the ground that the Post Office laws of the United States, under color of which the defendant acted, are not revenue laws of the United States, within the meaning of these terms, as they are used in the above-recited act of Congress, of March 2, 1883. And whether they are revenue laws within the meaning of these terms, as they are used in that act of Congress, is the only question presented. * * *

"All taxes which are imposed by the State, whether such taxes be direct or indirect, when collected, are the revenue of the State. They are its income. As they are the revenue of the State, all laws regulating such taxes, and giving such rules for their collection, are taxes relating to the revenue.

"Duties, or taxes collected under the tariff laws of the United States, upon the importation of foreign goods into the country, are the revenue of the State; and the laws regulating the collection of such duties as taxes, and prescribing rules to officials employed in such collection, are laws relating to the revenue. This is conceded. *But such duties or taxes are no more the revenue of the State than are the duties or taxes collected under the Post Office laws of the United States, for the carriage of letters in the public mails, the revenue of the State.* And the laws regulating the collection of duties or taxes upon the importation of foreign goods into the country, and prescribing rules for the Government of officials in the collection of such duties or taxes, are no more laws relating to the revenue than are the laws which regulate the mode of collecting duties or taxes for the carriage of letters in the public mails, or which prescribe rules for the conduct of officials in the collection of such duties or taxes for such carriage."

This is the decision of the Circuit Court, which is in conformity with the decision of the Supreme Court of the United States.

I read from 12th Howard's Reports of the decisions of the Supreme Court, page 96, *United States vs. Bromley*. Justice McLean delivers the opinion of the court, which was a unanimous one:

"This writ of error was issued under the act of the 31st of May, 1844, entitled 'An act to amend the judiciary act passed the 24th September, 1789,' which provides that final judgments in any Circuit Court of the United States, in any civil action brought by the United States for the enforcement of the *revenue laws* of the United States, or for the collection of the duties due on merchandise imported therein, may be examined, and reversed or affirmed, in the Supreme Court of the United States, without regard to the sum or value in controversy in such action, at the instance of either party."

Under that law the case went to the Supreme Court of the United States. The point raised there was, whether the Post Office laws were revenue laws in the contemplation of the Constitution and laws of the United States. I read now from the decision of the court in that case, which decides that the Post Office laws are revenue laws:

"Under the act of 1836, the revenue of the Post Office Department is paid into the Treasury. Revenue is the income of a State, and the revenue of the Post Office Department, being raised by a tax on mailable matter conveyed in the mail, and which is disbursed in the public service, is as much a part of

he income of the Government as moneys collected for duties on imports."

Here, then, Mr. Clerk, is the plain provision of the Constitution of the United States, and the decision of the Circuit and Supreme Courts of the United States. Upon those authorities we rely for a justification of the conduct of the last House of Representatives on the Post Office bill.

But if the Senate cannot originate a revenue bill, as every gentleman upon this floor must admit, can they attach an amendment to a bill sent from this House, not for the purpose of raising revenue, which will accomplish that purpose? Such an amendment to an appropriation bill would not of course be germane, and could not be made under the Constitution, if the Senate could not originate a bill for that purpose, as the foregoing authorities conclusively show. The proceedings of the last House on the Post Office bill were not only in conformity with the plain provisions of the Constitution and the decision of the courts, but were strictly in accordance with parliamentary precedent. I read from "May on Parliament," page 344. Every one of course will recognise it as a conclusive authority upon questions of parliamentary law:

"As a general rule, bills may originate in either House; but the exclusive right of the Commons to grant supplies, and to propose and appropriate all charges upon the people, renders it necessary to introduce by far the greater proportion of bills into that House. Bills relating to the relief and management of the poor, for example, involve, almost necessarily, some charge upon the people, and generally originate with the Commons. Two bills only relating to the poor have been sent to the Commons by the Lords during the present century. The first, in 1801, was laid aside *nem. con.*, when Mr. Speaker called attention to it; the second, in 1831, was received, but not proceeded with, the first reading being postponed for three months."

The Lords have ceased all attempts to force upon the Commons of Great Britain either amendments or bills imposing taxation upon the people. Yet it is proposed to introduce that practice into our system.

Again, May continues:

"Such amendments, however, ought not to interfere with regard to the amount of the tax, the mode of levying or collecting it, the persons who shall pay or receive it, the manner of its appropriation, or the persons who shall have the control and management of it. In any of these cases, the Commons may insist upon their privileges, and it is only by waiving them in particular instances, and under special circumstances, that such amendments have ever been admitted."

Yes, sir; the Commons would never admit them, unless it was expressly stipulated that, in particular cases, they would waive their objection.

Again, says the same author, page 408:

"In bills not confined to matters of aid or taxation, but in which pecuniary burdens are imposed upon the people, the Lords may make any amendments, provided they do not alter the intention of the Commons with regard to the amount of the rate or charge."

The Senate did not undertake to alter our bill, but to impose a direct charge upon the people; and therefore it was not germane to our bill. Had we introduced a bill making an increase in the rate of postage, or pertaining to that subject, then, under that clause of the Constitution which permits the Senate to amend revenue bills, they could have done it. In Parliament, there is no law allowing the Lords to put amendments even upon bills of the Commons which impose taxes or burdens upon the people. The Senate may do it upon bills for that purpose originating in

the House, because the Constitution makes that express exception.

To the following parliamentary precedent I wish specially to call the attention of the House, page 408 of May on Parliament:

"But all bills of this class must originate in the Commons, as that House will not agree to any provisions which impose a charge upon the people if sent down from the Lords, but will order the bills containing them to be laid aside."

Now, if the Senate had sent us a bill in this case, we would have ordered it laid aside, as we did this bill.

"Neither will they permit the Lords to insert any provisions of that nature in bills sent up from the Commons; but will disagree to the amendments, and insist on their disagreement, or lay the bill aside at once."

In accordance with this precedent, we did lay aside the Post Office bill.

I will read one other precedent from Farrall's Laws of Parliament, page 109, sustaining the same thing:

"First—that in bills of aid and supply, as the Lords cannot begin them, so they cannot make any alterations, either as to the quantum of the rate, or the disposition of it, or, indeed, any amendment whatever, except in correcting verbal or literal mistakes.

"Where the bill, with amendments made by the Lords, appear to be of a nature which, though not immediately, yet, in their consequences, will bring a charge upon the people, the Commons have denied the right of the Lords to make such amendments, and the Lords have acquiesced.

"The Commons are not only treasurers to the nation, but also possess the initiative of any bill imposing a tax, for whatever purpose. * * *

"So tenacious have the Commons been of this money privilege, that they have frequently rejected bills, containing money clauses, solely on the ground of their not having originated with themselves.

"On the 24th July, 1661, the Lords sent down a bill for paving the streets and highways of Westminster, to which they desire the concurrence of the Commons." As soon as the bill is read the first time, 'the House observing that said bill was to alter the course of the law in part, and to lay a charge upon the people, and conceiving that it is a privilege inherent to this House, that bills of that nature ought to be first considered here,' the bill is laid aside, and it is ordered 'that the Lords be acquainted therewith, and with the reasons inducing the House thereto; and the Lords are to be desired, for that cause, not to suffer any mention of the said bill to remain on the journals of their House; and that the Commons, approving the purport of the bill, have ordered in a bill of the same nature.'

"On the 15th February, 1664, a bill somewhat similar was laid aside on the same grounds."

I could read more authorities on this point, but will not take up the time of the House by doing so. Such, Mr. Clerk, is the history of the proceedings of the two houses of Congress on the Post Office bill to which the Senate attached their amendment increasing the rate of postage. Such are the authorities and decisions on which we relied to sustain the action of the majority of the House in relation to it. And had the gentleman from North Carolina [Mr. BRANCH] been as familiar with constitutional law and parliamentary precedents as his long experience in legislation would have led us to suppose, he could have found sufficient and abundant reasons to justify my conduct, and that of a majority of the House, without violating all parliamentary and gentlemanly courtesies that are recognised in all deliberative bodies, by impugning the motives of his peer, and charging sordid and selfish considerations as the motive of our action.

Mr. BRANCH. I desire to ask the gentleman from Pennsylvania whether I am to understand his language as imputing to me any conduct that was ungentlemanly.

Mr. GROW. I said that the gentleman violated all parliamentary and gentlemanly courtesies.

sies that are recognised in all deliberative assemblies. It needs no reference to parliamentary law to know that. The first rule of parliamentary law is, that no gentleman has the right to impugn the motives of another.

Mr. BRANCH. I desire to ask the gentleman whether he means, by that language, to impute to me any conduct that is ungentlemanly.

Mr. GROW. I ask the gentleman to refer to his own language, and see what he thinks—

Mr. BRANCH. I demand of the gentleman from Pennsylvania to know whether he means by that language to impute to me any conduct that is ungentlemanly or unbecoming.

Mr. GROW. The gentleman charged, the other day, that I had defeated the Post Office appropriation bill, in order to compel the President of the United States to call an extra session of Congress. I say that such an imputation on my motives was not gentlemanly under parliamentary law.

Mr. BRANCH. I repeat the question which I have already asked the gentleman from Pennsylvania—whether he designs, in those remarks, to impute to me any conduct unbecoming a gentleman. A failure to respond I shall assume to be an affirmative answer.

Mr. GROW. Mr. Clerk, I take the language of the gentleman. What I have said on it is plain English, and there it stands. The gentleman, the other day, impugned my motives of action on the Post Office bill. The impugnement of motives in a legislative body is everywhere regarded, not only as unparliamentary, but as ungentlemanly, under parliamentary practice and law.

Mr. BRANCH. I repeat that the gentleman has not responded to my inquiry, and that I shall take his failure to respond as an affirmative answer.

Mr. GROW. The gentleman can take just what he pleases.

Mr. BRANCH. I will do so.

Mr. GROW. I will read the gentleman's own language, from the *Globe* of Monday last:

"Now, I think I am justifiable, in the face of these facts, in saying that the design which the gentleman had in view was to kill the bill, and that the motive and object that he had was to compel the President to call Congress together shortly after the 4th of March."

This is the language to which I apply the parliamentary law; and I take back nothing that I have said.

Now, Mr. Clerk, there is one other point in this transaction to which I desire to call the attention of the House. Neither of the gentlemen commented upon it, when they attempted to hold me responsible for defeating the Post Office bill, and impugned my motives. I pass by all impugnement of motives; for gentlemen stand on this floor, independent Representatives, responsible to their constituents for their conduct. If motives of gentlemen are to be impugned for their action in legislative bodies, everybody knows what the result would be.

Now, I call attention to the history of this transaction, after the defeat of the bill which had on it the amendment increasing the rate of postage. Mr. PHELPS moved to take the bill from the table. The House refused to take it up. If the House were to consider unconstitutional amendments, that would be an entire

waiver of its right to insist that the Constitution should not be violated by the Senate. After that vote, Mr. PHELPS asked the unanimous consent of the House to report another bill, making all the appropriations which were in the first bill. That bill passed the House by a unanimous vote, when a single objection would have prevented its introduction. So, as soon as this bill, increasing the rate of postage, was laid aside by the action of the House, a new bill was introduced, and sent to the Senate, appropriating \$15,000,000 for the current expenses of the Department; \$3,800,000 for a deficiency, and about two million dollars for building post offices, &c. What was its fate in the Senate? I propose to trace all three of these bills which passed the House, and see what became of them. The first one was defeated by the amendment of the Senate. The next one was left on the table of the Senate. I read from the *Congressional Globe*, volume 28, second session Thirty-fifth Congress:

"A message from the House of Representatives announced that the House had passed a bill (H. R. No. 893) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1860."

That was the second bill the House passed. What did the Senate do with that bill? I read from page 1643, same volume, of the *Congressional Globe*:

"Mr. FITCH, (at half past twelve o'clock.) I believe a new Post Office appropriation bill has been sent here from the House. Am I correct?"

"The VICE PRESIDENT. The Senator is correct. * * *

"Mr. TOOMBS. My purpose is to object to the second reading of the bill. I want to make short business of it.

"Mr. FITCH. That was my object." * * *

Then, upon page 1645:

"The VICE PRESIDENT. The bill will be read through, if required.

"The bill (H. R. No. 893) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1860, was read the first time by its title.

"Mr. TOOMBS. I object to the second reading of the bill. * * *

"The VICE PRESIDENT. It is moved and seconded that the bill do lie on the table.

"Mr. TOOMBS. No, sir; I objected to the second reading of it, and, according to our rule, I believe it cannot be read twice to-day without unanimous consent.

"The VICE PRESIDENT. It cannot be read twice to-day, objection being made.

"Mr. REID. I move to lay it on the table.

"Mr. HUNTER. It does lie on the table, because its second reading is objected to. It cannot come before the Senate when the second reading is objected to."

That was the fate of the second bill.

Well, sir, a third bill was passed by the House; and now, what was done with that bill? How did it come before the two houses? I wish it borne in mind that three separate bills were passed by the House of Representatives, making all necessary appropriations for the service of the Post Office Department—the first on the 26th of February, the second on the 3d of March, and the third at half past ten o'clock, A. M., on the 4th of March—all of which were sent to the Senate. I have cited the record of the fate of two of them. All three, as passed by the House, were substantially if not exactly the same. The last two contained no provision that had not been previously concurred in by both the Senate and House. But what was done with the third bill? The Senate asked for a committee of conference, after we had sent to them the second bill, to consult as to the powers of the two houses. That committee was granted in this House without a single objection. The committee of con-

ference was appointed. And here let me reply to the inquiry of the gentleman from North Carolina the other day, why we did not allow the first bill to go to a committee of conference.

Sir, I had seen, in my experience in this House, enough to believe, that if such a committee were appointed, a majority of its members would be against the wishes of the majority of the House. I had seen in that Congress a majority of one committee, on an important measure of legislation, appointed from the minority, after a full vote of the House. But, sir, I would not yield the constitutional prerogative of this House, in the first place; and, in the next place, I would permit no increase in the rates of postage to pass, with my consent, either then or hereafter; and therefore I would not permit the amendment increasing postage to go to a committee of conference, where, in the hurly-burly of the last hours of the session, it might be forced through.

When the committee of conference asked by the Senate was granted, without an objection, it was composed, as I apprehended it would be on the part of the House, of a majority of members who voted against my resolution. Two gentlemen were put on it representing the minority of the House, and one representing the majority. That was the way it was constituted. I was put on it, it is true, but I was the only one representing the views of a majority of the House, while the other two represented a minority. And after the committee of conference was raised, by the unanimous voice of the House, they met and exchanged views with the conferees on the part of the Senate. They decided unanimously to report just as the gentleman from North Carolina the other day said. The following is that report:

The committee of conference on the disagreement between the two houses on the resolution adopted by them, respectively, in relation to the action of the House on the Senate's amendment to the bill (H. R. No. 872) "making appropriations for defraying the expenses of the Post Office Department for the year ending the 30th of June, 1860," having met, after full and free conference, have agreed as follows: *That while neither House is understood to waive any constitutional right which they may respectively consider to belong to them, it be recommended to the House to pass the accompanying bill, and that the Senate concur in the same when it shall be sent to them.*

J. LEITCHER,
L. O'B. BRANCH,
GALUSHA A. GROW,
Managers on the part of the House
CHARLES E. STUART,
J. A. PEARCE,
SOLOMON FOOT,

Managers on the part of the Senate.

That was what the committee of conference agreed to unanimously; the committee being, in the aggregate, composed of four Administration men and two Republicans, one in the Senate and one in the House. That report, thus unanimous, was presented to the House, and the bill reported by them passed the House with the single objection of Mr. Mason, of Kentucky, who objected to it on the ground that it contained appropriations for post office buildings and court-houses. It went to the Senate at eleven o'clock on the last day of the session, and I will read from the *Globe* to show what was done with it; and thus having traced the three bills to their death, I will let the responsibility fall where the record shows that it belongs.

On the 3d of March, legislative, that is, on the

4th in our calendar, an hour before the adjournment, the message was received from the House of Representatives in the Senate, announcing the passage of the bill reported by the committee of conference. I read from page 1660 of the Congressional Globe of the last session, vol. 28:

"A message from the House of Representatives, by Mr. Allen, its Clerk, at fifteen minutes past eleven o'clock, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two houses on the bill (H. R. No. 872) making appropriations for defraying the expenses of the Post Office Department for the year ending the 30th of June, 1860; and, in accordance therewith, he was directed to present to the Senate a bill, which the House of Representatives asked the concurrence of the Senate.

"Mr. STUART. The House has just sent to the Senate communication, with a bill, to make appropriations for the Post Office Department, in obedience to the report of the committee which was appointed to confer between the two houses. I move to take up that bill, and to act upon the report which has been made.

"Mr. TOOMBS. I object, if it becomes necessary. If it intended only to have it read, I do not object to that.

"The PRESIDING OFFICER. The Chair will state to the Senator that it is in order to receive the report of the committee and to have it read.

"Mr. TOOMBS. I did not wish to obstruct business; but did not intend to lose any right I had to object to it; and therefore it was taken up merely for the purpose of being read without prejudice. I have nothing to say until I hear from the committee.

"Mr. STUART. If the Senator from Georgia will allow the committee of conference, by the rules, have a right report at any time; but that does not affect any right the Senator may have in respect to the bill.

"Mr. TOOMBS. That is what I supposed; but I want from abundant caution, that it should be understood."

And Mr. TOOMBS was discussing the bill when the hour of twelve arrived, when the official report of debates closes as follows:

"The VICE PRESIDENT. The Senator from Georgia was in pause. The hour having arrived for the expiration of the Congress, I declare the Senate adjourned *sine die*."

Such, sir, is the history of the three bills making the necessary appropriations for the support of the postal service for the year ending the 30th of June, 1860. One received its death in the House, because it would not consent to allow the Senate to invade its constitutional prerogative and we take all the responsibility—those who co-operate with me—for that defeat; and, following the example of the gentleman from North Carolina, in the presence of the House, of these mail contractors, and of the country, we say that we are ready to take that responsibility as often as the occasion arises; for, while we hold seats here, we will not permit a plain provision of the Constitution to be violated, either by a co-ordinate department of the Government, or by a private citizen of the Republic; and if the mail contractors, seven thousand in number, to whom the Government already owes a debt of some five million dollars, are never paid until we consent that the constitutional privileges of the Representatives of the people and the prerogatives of this House are to be violated by any co-ordinate department of the Government, then they will never be paid. We are responsible for defeating the bill increasing the rate of postage. On the other two bills, which appropriated all the money necessary to carry on the Government, we have no responsibility. They passed this House unanimously, and they both died in the Senate of the United States; and I make no charges of who is responsible for their defeat. The record shows that.

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